

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

Pool
P.M. 1
118683

FILE: B-202582

DATE: June 14, 1982

MATTER OF: David M. Selner - Computation of Excess
Weight Charges - Household Goods

DIGEST: Civilian employee of Department of the Army had household goods shipped from McLean, Virginia, to the Canal Zone (now Republic of Panama) incident to an official change of duty station in 1975. Employee was authorized shipment of maximum household goods at a net weight of 3,750 pounds, but he exceeded that weight and now owes the Government the difference between the authorized net weight and the actual net weight. The issue considered is how to determine actual net weight under paragraph 2-8.2b(3) of the Federal Travel Regulations. We conclude that net weight under paragraph 2-8.2b(3) is determined by subtracting the container weight from the gross weight of the goods shipped and multiplying the resulting figure by 0.85. Stated as an equation: $n = .85(g-c)$. The computational method applied in our decision Wayne I. Tucker, 60 Comp. Gen. 300 (1981) will no longer be followed.

In considering the claim of the United States against Mr. David M. Selner, the issue to be decided is what is the proper method of determining the net weight of a household goods shipment under paragraph 2-8.2b(3), of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973).

BACKGROUND

In connection with the permanent change of official station of Mr. David M. Selner, a civilian employee of the Department of the Army, the Government arranged for the transportation of his household goods from McLean, Virginia, to Albright AFS, Canal Zone (now, Republic of Panama) in 1975. In accordance with 5 U.S.C. § 5724(a), and paragraph 2-8.2a of the FTR, Mr. Selner was authorized shipment of a maximum net weight of 3,750 pounds. The employee's voucher was originally paid on the net weight shown on the Government

Bill of Lading (GBL), 5,096 pounds; therefore, the cost of excess weight was assessed in the amount of \$808.29. Subsequently, the agency amended the voucher to permit a 15 percent weight reduction in accordance with paragraph 2-8.2b(3) of the FTR (paragraph C7050-2b of Volume 2, Joint Travel Regulations (JTR) (change 111, January 1, 1975)). This resulted in a revised net weight of 4,332 pounds and concomitant excess weight charges of \$409.08. Mr. Selner continues to dispute the amount of the claim and contends the amount in question is being erroneously computed. His method of computation would reduce the amount of the Government's claim to \$271.44.

STATEMENT OF THE ISSUE

The question concerns what mathematical formula is consistent with the applicable language and intention of paragraph C7050-2b of the Joint Travel Regulations. The pertinent regulation, now found at 2 JTR para. C8000-2c (change 142, August 1, 1977) and identical in substance to paragraph 2-8.2(b)(3) of the Federal Travel Regulations provides:

"Containerized shipments When special containers * * * are used and the known tare weight does not include the weight of the interior bracing and padding materials but only the weight of the container, the net weight of the household goods shall be 85 percent of the gross weight less the weight of the container." Emphasis added.

The Army has applied the following formula to implement this regulation: Net weight = .85 (Gross weight - container weight). Mr. Selner, however, contends that the proper formula to implement the regulation is: Net weight = .85 (Gross weight) - Container weight.

These different formulas yield different results. Applying each formula to Mr. Selner's circumstances, where the gross weight is 6,528 pounds and the container weight is 1,432 pounds produces the following:

- 1) Army's computation: Net weight = .85 (Gross - Container)
- " " = .85 (6,528 - 1,432)
- " " = .85 (5,096)
- " " = 4,332 (rounded)

With these figures, Mr. Selner's debt is \$409.08

2) Mr. Selner's computation: Net weight = .85 (6,528) -
1,432

" " = 5,549 - 1,432

" " = 4,117 (rounded)

With these figures, Mr. Selner's debt is \$271.44.

In a recent decision involving the proper method for determining the net weight of a household goods shipment under paragraph 2-8.2b(3) of the FTR we applied the formula represented by Mr. Selner's approach. See Wayne I. Tucker, 60 Comp. Gen. 300 (1981). To the extent that the agency's method of computation is obviously different, we believe that the language in paragraph 2-8.2b(3) of the FTR and the corresponding provision in 2 JTR may be read and interpreted to support both procedural formulas.

VIEWS OF THE GENERAL SERVICES ADMINISTRATION

In furtherance of our deliberations on the proper interpretation of the net weight formula we requested the views of the General Services Administration (GSA) - whose Federal Travel Regulations implement the statutory entitlement to relocation expenses including transportation of household goods.

By letter dated July 8, 1981, the Assistant General Counsel, Transportation and Public Utilities, GSA, responded to our request, in large part as follows:

"Without considering the regulatory history of paragraph 2-8.2b(3), Mr. Selner's position is arguable. If the equation sponsored by the Army were transposed, the 85% figure is multiplied not only by the gross weight amount, but also by the container weight figure. In calculating the net weight, an employee, it

could be argued, should receive the benefit of a full deduction for the weight of the container, not just 85% of it.

"If paragraph 2-8.2b(3) were to be interpreted as Mr. Selner interprets it however, the drafters could have inserted a comma between the words 'weight' and 'less' in the phrase quoted above. While the drafters could have chosen clearer language and more precise grammar to express their intentions, the absence of a comma and the history of the provision suggest that they opted for the formula used by the Army.

"In the drafting of regulations to implement certain provisions of the Overseas Differentials and Allowances Act, Pub. L. 86-707, the Bureau of the Budget (now the Office of Management and Budget or OMB), amended Title I, Section 6(b) of its 'Regulations Governing Payment of Travel and Transportation Expenses of Civilian Officers and Employees of The United States When Transferred From One Official Station to Another for Permanent Duty,' Circular No. A-4, Transmittal Memorandum No. 2, Attachment A dated April 3, 1961. This Amendment to Title I Section 6(b) of Circular No. A-4 specified that when 'specially designed containers, normally for repeated use' such as 'collapsible containers, household goods shipping boxes, lift vans, or conex transporters' are used, then 'The net weight shall be computed at 85% of the difference between the gross weight and the tare weight of the container.' (Emphasis added.)

"In a later superseding version of the same provision as that quoted from Attachment A to Circular No. A-4 above, at section 6.2b(2) of Attachment A to the Bureau of the Budget Circular No. A-56, dated October 12, 1966, the Bureau of the Budget again specified that 'the net weight is 85 percent of the difference between the gross and tare weights' (emphasis added) in the containerized household goods shipment situation.

"In 1971, Circular No. A-56 was again revised, but this time the language was changed at section 6.2b

and a new subsection (3), which was virtually identical to the provision now found at paragraph 2-8.2b(3) FTR, was added. See Attachment A to OMB Circular A-56, Revised, at section 6.2b(3), dated August 17, 1971, effective September 1, 1971. Despite the change in wording, the purpose of the revision seems to have been for clarification only: 'Provisions of 6.2b have been restated extensively for clarification,' and 6.2b(2) and (3) were separated 'to clearly distinguish crated and containerized shipment and the weight rules applicable to each.' (See Summary of Changes, p. 4-5, Attachment to Circular No. A-56, Revised, August 17, 1971). The regulations contained in OMB Circular A-56 were adopted by the Administrator of General Services effective October 21, 1971 (Federal Property Management Regulations, Temporary Regulation A-8, paragraph 5b dated October 20, 1971) and section 6.2b(3) of Attachment A to the old OMB Circular A-56 became (with a few grammatical changes and a nonrelevant addition at the end of the paragraph) paragraph 2-8.2b(3) of the Federal Travel Regulations, FPMR 101-7 on April 30, 1973. This provision has remained substantially unchanged since that time.

"In light of the aforementioned absence of a comma between the words 'weight' and 'less', and given the foregoing history of paragraph 2-8.2b(3), we believe that the interpretation of the Department of the Army is correct * * *."

CONCLUSION

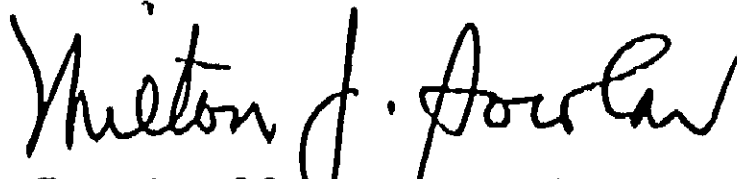
We conclude that the net weight of a household goods shipment under paragraph 2-8.2b(3) is determined by first subtracting the container weight from the gross weight of the goods shipped and then multiplying the resulting figure by 0.85. Stated as an equation the correct formula is:

$$n = .85(g-c).$$

While GSA's long history explains the origin of the discrepancy between the two dissimilar formulas, we believe the other formula, proposed by Mr. Selner and applied in our Tucker decision, provides an illogical result since it would credit travelers with an excessive allowance for the

weight of the external containers in addition to the 15 percent allowance for the weight of the interior bracing and padding materials.

Accordingly, in Mr. Selner's case we shall apply the formula $n = .85(g-c)$ to determine the net weight of his household goods shipment, and the resulting debt for excess charges is \$409.08. The computational method applied in our decision Wayne I. Tucker, 60 Comp. Gen. 300 (1981) will no longer be followed.

for 
Comptroller General
of the United States